

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

REGINALD McFADDEN,

Plaintiff,

-against-

RICHARD ROY; ANTHONY ANNICCI;
DEBORAH JARVIS, IRC; IRWIN LIEB,
Urologist; and GLENN S. GOORD,

Defendants.

9:03-CV-0931
(LEK/DRH)
(Lead Case)

REGINALD McFADDEN

Plaintiff,

-against-

KANG M. LEE, M.D.; ANTHONY ANNUCCI;
DONALD SELSKY; T. TEDFORD; DALE
ARTUS; T. TAMER, Sergeant; A. TOUSIGNANT;
S. MILLER; MICHAEL GORDON; WILLIAM
BROWN; J. LAREAU, Sergeant; LINDA KLOPH;
SERGEANT BERNARD, SHU; DAVID O'CONNELL,
M.D.; LOIS CROTTY, Infection Control Nurse;
DAVID ARMITAGE, Lt.; and LESTER N. WRIGHT,
M.D., DOCS,

Defendants.

9:04-CV-0799
(LEK/DRH)
(Member Case)

DECISION AND ORDER

This matter comes before the Court following two Report-Recommendations, filed on September 6, 2006, and September 13, 2006, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New

York. Sept. 6 Report-Rec. (Dkt. No. 123); Sept. 13 Report-Rec. (Dkt. No. 124). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections to both Report-Recommendations, by Plaintiff Reginald McFadden, which were filed on September 15, 2006, and September 21, 2006. Objections (Dkt. Nos. 125 & 127).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

ORDERED, that the September 6, 2006 Report-Recommendation (Dkt. No. 123) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Defendants’ motion to dismiss (Dkt. No. 112) is **GRANTED IN PART** and **DENIED IN PART**. As to Defendants Wright, Selsky, and Brown, the motion is **GRANTED** and these Defendants are **DISMISSED** from this case. As to Defendants Kloph and Crotty, the motion is **DENIED**; and it is further

ORDERED, that the September 13, 2006 Report-Recommendation (Dkt. No. 124) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Plaintiff’s motion for summary judgement against Defendant Lieb (Dkt. No. 86) is **DENIED**; and it is further

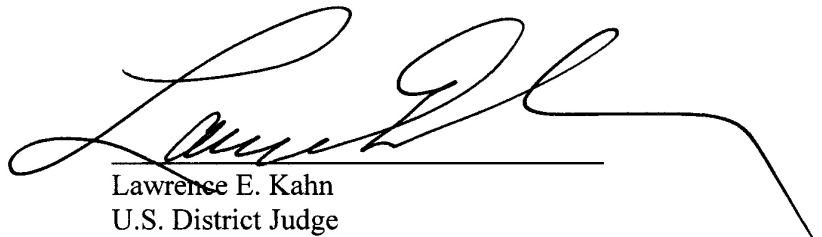
ORDERED, that Defendant Lieb’s cross-motion for summary judgment (Dkt. No. 88) is

GRANTED and Defendant Lieb is **DISMISSED** from both the lead case and the member case, and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: September 26, 2006
Albany, New York



Lawrence E. Kahn
U.S. District Judge